REMARKS

Claims 1, 4 and 5 are pending in this application. Claim 1 has been amended, claims 2 and 3 cancelled and claims 4 and 5 added. Care has been exercised to avoid the introduction of new matter. Indeed, adequate descriptive support for the present Amendment should be apparent throughout the originally-filed disclosure as, for example, pages 5, 10, 12 and 13 of the written description of the specification. Applicants submit that the present Amendment does not generate any new matter issue.

In a Decision by the Board of Patent Appeals and Interefcrences mailed August 29, 2003, the Examiner's rejections of claims 1 through 3 were affirmed. The rejections affirmed by the Board were:

1. Claims 1 through 3 were rejected under 35 U.S.C. §102 for lack of novelty or, alternatively, under 35 U.S.C. §103 for obviousness predicated upon U.S. Patent No. 5,424,261 issued to Harris et al. (Harris '261), Chow, Yasumoto et al., Sugiura et al. and JP 408157265 (J'265) each taken singly; and

2. Claims 1 through 3 were rejected under 35 U.S.C. §102 for lack of novelty or, alternatively, under 35 U.S.C. §103 for obviousness predicated upon U.S. Patent No. 5,773,377 issued to Harris et al. (Harris '377).

Applicants submit that the present claims clearly distinguish over the applied prior art, and further undermine any notion of inherency. Specifically, none of the applied references, taken singly or a combination, disclose or suggest the notion of governing the balance of the movement of the molten constituents of the sintering agents on the surface of the foreign body as in claim 1, let alone by employing a setter as in claim 4 or by

manipulating of the flow rate of the atmospheric gas as in claim 5. It is by governing the balance of the movement of the molten constituents of the sintering agents on the surface of the formed body that the uniformity of distribution of sintering agents is achieved as specified in claim 1 and, hence, warpage is controlled.

In this respect Applicants would stress that the claimed invention resides in controlling the uniformity of distribution of sintering agents which does not automatically occur. Accordingly, the recited uniformity of distribution of sintering agents cannot be said to occur in prior art aluminum nitride ceramic based materials with **certainty**.

Applicants would again refer to Table 2 of the written description of the specification which establishes that methodology impacts the uniformity of distribution of the sintering agents between opposing surfaces and, hence, warping subsequent to sintering. Thus, Table 2 confirms that the limitations now recited in claims 1, 4 and 5 affect the resulting article, both in terms of structure and properties. Accordingly, the limitations in claim 1 requiring governing the balance of the movement of the molten constituents of the sintering agents on the surface of the foreign bodies, and the requirements of claims 4 and 5 setting forth how such an objective is achieved, cannot be ignored and must be given consideration as these limitations affect the structure and properties of the claimed article. *In re Garnero*, 412 F.2d 276, 162 USPQ 221 (CCPA 1969).

Applicants stress that none of the applied references taken singly or a combination, disclose or suggest the notion of governing the balance of the movement of the molten constituents of the sintering agents on the surface of the formed body, let alone for the purpose of achieving the uniformity of distribution of sintering agents set forth in claim 1,

much less by the particular technique of employing a setter as in claim 4 or controlling the flow rate of atmospheric gas in the sintering furnace as set forth in claim 5. Such claim requirements affect the uniformity of distribution of sintering agents as set forth in claim 1, as evidenced by Table 2 in the written description of the specification. Table 2 further underscores the fact that the manner in which said sintering occurs affects the ultimate structure in properties. *In re Garnero, supra.*

Applicants, therefore, submit that the imposed rejection of claim 1 under 35 U.S.C. §102 for lack of novelty or, alternatively, under 35 U.S.C. §103 for obviousness predicated upon each of Harris '261, Chiao, Yasumoto et al., Sugiura et al., J'265 and Harris '377 is not factually or legally viable and, hence, solicit withdrawal there. Applicants further submit that for reasons which should be apparent from the foregoing discussion, claims 4 and 5 are free of the applied prior art.

It should, therefore, be apparent that all pending claims are in condition for immediate allowance. Favorable consideration is, therefore, respectfully solicited.

09/339,826

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT, WILL & EMERY

Arthur J. Steiner
Registration No. 26,106

600 13th Street, N.W.
Washington, DC 20005-3096
(202) 756-8000 AJS/lrd
Facsimile: (202) 756-8087
Date: October 23, 2003